

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

NETLIST, INC.

v.

**SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., SAMSUNG SEMICONDUCTOR,  
INC.**

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Case No. 2:21-cv-00463-JRG

**MINUTES FOR PRETRIAL CONFERENCE – Day 1  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
March 28, 2023**

**OPEN: 09:09 AM****ADJOURN: 05:14 PM**

ATTORNEYS FOR PLAINTIFF: See attached

ATTORNEYS FOR DEFENDANTS: See attached.

LAW CLERKS: Ryan Davies  
Harris Huguenard  
Jeffrey Jacobsen

COURT REPORTER: Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY: Andrea Brunson, CP

<b><u>TIME</u></b>	<b><u>MINUTE ENTRY</u></b>
09:09 AM	Court opened.
09:10 AM	Court called for announcements from counsel.
09:12 AM	Court provided instructions and housekeeping matters to the parties. Case is set No. 1 for jury selection and trial on Friday, April 14, 2023. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. Counsel will be given 30 minutes per side for <i>voir dire</i> . The parties will be given 12-1/2 hours per side for the jury trial portion. Opening statements will be 30 minutes per side. Closing arguments will be 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes

<u>TIME</u>	<u>MINUTE ENTRY</u>
	that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Court instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Court instructed the parties to refer to the Court's Standing Order re: preadmission of exhibits. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 PM noon on Monday, April 10, 2023. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. Counsel confirmed resolution of dispute re: interpreter. Parties to deliver to the Court by 5:00 PM on Monday, April 10, 2023, a joint submission of a current Jury Instruction/Verdict form. A reminder that expert witnesses are confined to the four corners of their report.
09:30 AM	Court proceeded with hearing argument re: the following disputed dispositive motions:
09:30 AM	[SEALED] Netlist Inc.'s Motion for Partial Summary Judgment on Samsung's License Affirmative Defenses (Dkt. No. 201) and [SEALED] Samsung's Motion for Summary Judgment That All Accused Products Sold Before July 15, 2020 Are Licensed (Dkt. No. 196).
09:30 AM	Mr. Sheasby presented argument for Plaintiff.
09:40 AM	Responsive argument by Mr. Cordell for Defendants.
10:06 AM	Rebuttal argument by Mr. Sheasby for Plaintiff.
10:20 AM	Additional responsive argument by Mr. Cordell for Defendants.
10:29 AM	Court DENIED Dkt. No. 201 and GRANTED Dkt. No. 196.
10:31 AM	Court directed counsel to meet and confer during recess.
10:32 AM	Recess.
10:45 AM	Court reconvened.
10:46 AM	Court clarified its previous ruling as set forth in the record.
10:49 AM	Court heard argument re: [SEALED] Samsung's Motion for Summary Judgment of Noninfringement of U.S. Patent Nos. 8,787,060 and 9,318,160 (Dkt. No. 197).
10:49 AM	Mr. McKeon presented argument for Defendants.
11:10 AM	Responsive argument by Mr. Sheasby for Plaintiff.
11:18 AM	Rebuttal argument by Mr. McKeon for Defendants.
11:19 AM	Court DENIED Dkt. No. 197.

<b>TIME</b>	<b>MINUTE ENTRY</b>
11:20 AM	Court heard argument re: [SEALED] Netlist Inc.'s Partial Motion for Summary Judgment Finding JEDEC Materials Are Not Publicly Accessible (Dkt. No. 209).
11:21 AM	Mr. Sheasby presented argument for Plaintiff.
11:33 AM	Responsive argument by Mr. McKeon for Defendants.
11:47 AM	Rebuttal argument by Mr. Sheasby for Plaintiff.
11:52 AM	Court DENIED Dkt. No. 209.
11:53 AM	Mr. Sheasby and Mr. Cordell updated the Court re: meet and confer efforts.
11:55 AM	Recess for lunch.
12:53 PM	Court reconvened.
12:53 PM	Court heard argument re: [SEALED] Netlist Inc.'s Motion for Partial Summary Judgment on Samsung's Invalidity Defenses (Dkt. No. 211).
12:53 PM	Mr. Sheasby presented argument for Plaintiff.
01:14 PM	Responsive argument by Mr. McKeon for Defendants.
01:30 PM	Rebuttal argument by Mr. Sheasby for Plaintiff.
01:32 PM	Court made rulings as set forth in the record re: Dkt. No. 211.
01:33 PM	Court heard argument re: [SEALED] Samsung's Motion for Summary Judgment of No Pre-Suit Damages (Dkt. No. 198) and [SEALED] Netlist Inc.'s Motion for Partial Summary Judgment on Samsung's Affirmative Defenses (Dkt. No.199).
01:34 PM	Ms. Degnan presented argument for Defendants.
01:48 PM	Responsive argument by Mr. Sheasby for Plaintiff.
01:56 PM	Rebuttal argument by Ms. Degnan for Defendants.
01:58 PM	Court made rulings as set forth in the record re: Dkt. No. 198.
02:01 PM	Court made rulings as set forth in the record re: Dkt. No. 199.
02:04 PM	Court heard argument re: [SEALED] Samsung's Motion for Summary Judgment of No Willfulness (Dkt. No. 200).
02:04 PM	Ms. Degnan presented argument for Defendants.
02:15 PM	Responsive argument by Mr. Sheasby for Plaintiff.
02:27 PM	Rebuttal argument by Ms. Degnan for Defendants.
02:30 PM	Court made rulings as set forth in the record re: Dkt. No. 200.
02:32 PM	Recess.
02:53 PM	Court reconvened.
02:53 PM	Court heard argument re: [SEALED] Samsung's <i>Daubert</i> Motion and Motion to Strike Expert Testimony of David Kennedy (Dkt. No. 205).
02:53 PM	Mr. Cordell presented argument for Defendants.
03:32 PM	Responsive argument by Mr. Sheasby for Plaintiff.
03:53 PM	Rebuttal argument by Mr. Cordell for Defendants.
04:00 PM	Additional argument by Mr. Sheasby for Plaintiff.
04:04 PM	Court made rulings as set forth in the record re: Dkt. No. 205.
04:06 PM	Court heard argument re: [SEALED] Netlist Inc.'s Motion to Strike Certain Opinions of Defendants' Expert John B. Halbert (Dkt. No. 207).
04:06 PM	Mr. Sheasby presented argument for Plaintiff.
04:10 PM	Responsive argument by Mr. Mosteller for Defendants.
04:23 PM	Court DENIED and provided guidance and clarification re: Dkt. No. 207.

<b><u>TIME</u></b>	<b><u>MINUTE ENTRY</u></b>
04:24 PM	Court heard argument re: [SEALED] Netlist Inc.'s Motion to Strike Portions of the Rebuttal Expert Report of Paul K. Meyer (Dkt. No. 214).
04:25 PM	Mr. Sheasby presented argument for Plaintiff.
04:37 PM	Responsive argument by Mr. Reger for Defendants.
04:51 PM	Rebuttal argument by Mr. Sheasby for Plaintiff.
04:53 PM	Court made rulings as set forth in the record re: Dkt. No. 214.
04:57 PM	Court heard argument re: [SEALED] Netlist Inc.'s Motion to Strike Portions of the Rebuttal Expert Report of Philip Kline (Dkt. No. 206).
04:59 PM	Mr. Rosen presented argument for Plaintiff.
05:03 PM	Responsive argument by Mr. Reger.
05:07 PM	Court made rulings as set forth in the record re: Dkt. No. 206.
05:09 PM	Court provided instruction to counsel.
05:14 PM	Recess for the day to return at 9:00 AM tomorrow.